THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 2541 OF 2002

Dated: 24-10-2005

Between:

M/s Pavani Engineering Works,

H.No. 11-130/5B, Srinagar Colony,

Uppal Hyderabad 500 039

Rep. by its proprietress

L.Lakshmi Kumari,

W/o L.S.P.Mukharji. …Petitioner

A N D

The Municipal Commissioner,

Uppal Kalan Municipality, Uppal, Hyderabad

And two others …Respondents

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W.P.No. 2541 OF 2002

ORDER:

1. This writ petition has been filed by M/s Pavani Engineering Works, Uppal, Hyderabad represented by its proprietor L.Lakshmi Kumari, assailing the order passed by the Municipal Commissioner, Uppal Kalan Municipality, Uppal-1st respondent in ROC No. F/714/2001, dated 21-11-2001.

2. The petitioner is a proprietary concern. One L.Lakshmi Kumari is its proprietress. The petitioner unit has been registered as Small Scale Industry on 25th July, 2000. The Unit has been running workshop in Plot No. 113 admeasuring 90 square yards. Municipal Commissioner, Uppal Kalan Municipality, Uppal- 1st respondent granted license for running the workshop on 25-7-2000. He has also given 'No Objection Certificate' at the time of registering the unit as Small Scale Industry. The Petitioner obtained power supply from A.P. Transco for running workshop. It had availed loan from Golconda Grameena Bank for the purpose of starting the industry. The 1st respondent cancelled the license of the petitioner vide proceedings No. F/714/2001, dated 9-8-2001, whereupon the petitioner filed W.P.No. 17261 of 2001. The said writ petition came to be disposed of setting aside the order passed by the 1st respondent with a direction not to cancel the license of the petitioner without issuing notice. The 1st respondent issued a show cause notice dated 31-10-2001 for cancellation of the license on the ground that the residents of the locality raised certain objections. The petitioner submitted explanation on 12-11-2001 to the show cause notice. The 1st respondent Municipality passed orders on 21-11-2001 refusing to renew the license and directing the petitioner to stop running of trade forthwith. Hence, the writ petition.

3. 1st respondent filed counter affidavit. It is stated in the counter affidavit that the petitioner has been carrying on the work on the road area and obstructing free flow of traffic and dumping iron material on the road. I deem it appropriate to refer para 4 of the counter affidavit and it is thus:

> *"In reply to para 2 to 5, it is true that the Petitioner has filed Writ Petition No. 17261 of 2001 and in that Writ Petition the Order passed by the Respondent Commissioner was set aside on the ground that before giving the cancellation order no show cause notice has been given. It is submitted that Sri Nagar Colony Welfare Association filed representation to the Chairman, Uppal Kalan Municipality, dt: 24-07-2001, stating that the Petitioner carrying on the work on the road area and obstructing the free flow of traffic and also complained that Petitioner is dumping iron material on the road apart from sound pollution. In pursuance of the orders passed by the Hon'ble High Court in W.P.No. 17261/2001, this Respondent has issued a show cause notice, dt. 31-10-2001 in R.C.No. F/714/2001. It is submitted that in the show cause notice given by the Respondent to the Petitioner this Respondent directed*

the Petitioner to show cause why the action should not be taken against the Petitioner, since he is running the trade of fabrication works without the license from the Municipality. It is further submitted that, in that show cause notice this Respondent also informed about the complaint of Sri Nagar Colony Welfare Association. It is further submitted that the Petitioner did not give proper reply to the show cause notice. Therefore, the Petitioner has issued a Confirmation Order dt: 21-11-2001 by duly considering the reply given by the Petitioner".

4. When this writ petition came up for hearing, there is no representation on behalf of the respondents.

5. Heard counsel for the petitioner and perused the record.

6. Learned counsel for the petitioner submits that the explanation submitted by the petitioner to the show cause notice has not been properly considered by the respondent-Municipality and thereby it erred in passing order impugned in the writ petition. He took me to the reply dated 21-11-2001 submitted by the petitioner to the show cause notice. The order impugned in the writ petition does not indicate that the 1st respondent Municipality considered the reply of the petitioner properly. I deem it appropriate to refer the relevant portion of the order impugned in this writ petition.

"*With reference to your reply dated 12-11-2001, you are hereby informed that the license granted for the year 2000-2001 has already lapsed on 31-3-2001 and you are running the trade without licence w.e.f. 1-4-2001 onwards and since there is a representation from the Srinagar Colony Welfare Association, Uppal to close the trade, the licence for the year 2001-2002 cannot be renewed. The Demand Draft bearing No. 954825, dt. 9-11-2001 for Rs.400/- received on 13-11-2001 is herewith returned*

Hence, you are hereby directed to stop the running the trade forthwith, failing which necessary action will be taken against you under the provisions of A.P. Municipalities Act, 1965 as well as for its disconnection of electricity supply".

7. It is explicit from the order that the explanation offered by the writ petitioner to the show cause notice has not been properly dealt with by the 1st respondent.

8. In the circumstances, I deem it appropriate to direct the 1st respondent to consider the explanation offered by the writ petitioner to the show cause notice in right perspective and pass appropriate orders within two months from the date of receipt of a copy of this order. The 1st respondent Municipality is at liberty to take necessary opinion from the A.P.Transco as to whether load of power supply being utilized by the petitioner affects domestic power supply to the residents of Srinagar Colony, Uppal, Hyderabad.

9. Writ Petition is disposed of accordingly, No order as to costs.

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B.Seshasayana Reddy, J.

24th October, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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W.P.No. 2541 OF 2002

24th October, 2005.